

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Darryl A. Harris,

Civil No. 07-3596 PAM/AJB

Petitioner,

v.

ORDER

State of Minnesota,

Respondent.

This matter is before the Court on the Report and Recommendation of United States Magistrate Judge Arthur J. Boylan dated September 24, 2007. Petitioner filed timely objections to the Report and Recommendation ("R&R").

Petitioner filed a Petition pursuant 28 U.S.C. § 2254, challenging his state-court conviction. However, Petitioner failed to sign that Petition as required by Rule 2(c)(5) of the Rules Governing Section 2254 Cases in United States District Courts. The Magistrate Judge directed Petitioner to file a new amended Petition to correct the deficiencies in the original Petition. In response, Petitioner filed a "Motion of Explanation of Unique and Extraordinary Circumstances" that purported to explain why Petitioner had failed to file a certificate of service. This Motion did not mention Petitioner's failure to sign his Petition.

Therefore, having received no response to the order directing Petitioner to file a new Petition, the Magistrate Judge correctly recommended dismissal of this matter without prejudice. Petitioner now objects to the Magistrate Judge's recommendation, contending that he should not be held to the standards of an attorney. While the Court is sympathetic to

Petitioner's situation, the fact remains that Petitioner did not sign his original Petition as he was required to do and as the Magistrate Judge directed him to do.

Therefore, the Court must dismiss the original Petition. However, the Court will dismiss the Petition without prejudice, which means that Petitioner may file a new amended Petition if he chooses. Petitioner is cautioned that he must sign any amended Petition and comply with the other requirements for filing that Petition.

Accordingly, **IT IS HEREBY ORDERED that:**

1. Petitioner's application for leave to proceed in forma pauperis (Docket No. 2) is **DENIED AS MOOT**; and
2. The Petition (Docket No. 1) is **DISMISSED WITHOUT PREJUDICE**.

Dated: October 22, 2007

s/ Paul A. Magnuson
Paul A. Magnuson
United States District Court Judge